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FISCAL IMPACT STATEMENT

LS 6419

BILL NUMBER: SB 172

NOTE PREPARED: Feb 17, 2003

BILL AMENDED: Feb 13, 2003

SUBJECT: Operating a Vehicle While Intoxicated.

FIRST AUTHOR: Sen. Young R Michael

FIRST SPONSOR: Rep. Oxley

BILL STATUS: As Passed Senate

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☒ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: (Amended) This bill has the following provisions:

(A) It makes the offense of operating a motor vehicle while intoxicated as a Class A misdemeanor a Class D felony if at least one passenger less than 18 years of age was in the vehicle if the driver is over the age of 21.

(B) It prohibits persons who have been convicted of certain offenses involving operating a motor vehicle while intoxicated from obtaining a probationary license.

(C) It requires a person convicted of OWI with two priors to serve a mandatory 30 day jail sentence or perform 60 days of community service,

(D) It requires a court to recommend lifetime suspension of driving privileges for persons who have two convictions of operating a motor vehicle while intoxicated and causing death.

(E) It increases or establishes mandatory jail time for persons convicted of committing certain offenses involving operating a motor vehicle while intoxicated. It provides that: (1) assessments for alcohol and drug abuse; or (2) an alcohol or drug abuse program must be conducted by certain persons.

Effective Date: July 1, 2003.

Explanation of State Expenditures: State expenditures could increase if an offender is incarcerated in a state prison rather than in a local jail. A Class D felony is punishable by a prison term ranging between six months to three years or reduction to Class A misdemeanor. The period of incarceration will depend upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$25,087 in FY 2001. Individual facility expenditures ranged from \$18,520 to \$54,465. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost per offender for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is

approximately ten months. The court would be able to suspend only the sentence in excess of the six-month minimum sentence for repeat offenders convicted of the Class D felony.

Explanation of State Revenues: (Revised) More revenue to the Common School Fund could be collected if a larger criminal fine is assessed by the sentencing court. The maximum fine for a Class A misdemeanor is \$5,000, while the maximum fine for a Class D felony is \$10,000. Court fees for both misdemeanors and felonies are \$120.

If a criminal action, infraction, or ordinance violation involves a traffic violation, including this proposed offense, a highway work zone fee of either \$0.50 or \$25.50 is assessed.

The extent of the impact of *Provision B* is not known at this time. This portion of the note will be updated when additional information is available.

Explanation of Local Expenditures: (Revised) *Provision C*: Adding 20 days to the mandatory 10 days in jail could increase the county jail populations or increase the amount of time that convicted persons would stay in community corrections programs.

The number of offenders who are committed to county jails for this offense is currently unknown. To illustrate how this provision might affect county operations, the number of offenders who were convicted of drunk driving with one or more prior OWI offenses and the number of persons committed to DOC for OWI with one or more prior OWI offense was considered.

BMV reported that in CY 2002, 3,861 persons were found guilty of OWI with a prior conviction of an OWI offense. For FY 2002, DOC reported that 1,297 offenders were committed for OWI with more than one prior OWI conviction.

Based on a packet search of 130 offenders committed to DOC, DOC found that 80% had two or more prior OWI offenses. Assuming that 80% of the persons found guilty of OWI with a prior OWI conviction, 3,000 persons could be spending either an additional 20 days in jail or 60 days in community corrections.

Persons Found Guilty of Operating a Vehicle While Intoxicated With One Or More Prior OWI Convictions in CY 2002	
Total Number of Persons	3,861
Persons With More Than One Prior Conviction*	3,089
* Base on a packet search by DOC of 10% of these commitments showed that 20% had one prior conviction and the remaining 80% had more than one prior conviction.	

As of November 2002, 64 counties operated community corrections programs and received state support. DOC reports that 15,799 adult offenders were being served in some type of community corrections program as of December 31, 2001.

The average daily cost to incarcerate a prisoner in a county jail is roughly \$44.

Explanation of Local Revenues: Court fees for both misdemeanors and felonies are \$120.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts; local law enforcement agencies.

Information Sources: Indiana Sheriffs Association.

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